

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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ELECTRONICALLY FILED
DOC #:
DATE FILED: 8/28/08

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IN RE SEPTEMBER 11 LITIGATION

**ORDER REGULATING ADMISSIBLE
EVIDENCE ON MOTION FOR
SUMMARY JUDGMENT**

21 MC 101 (AKH)

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ALVIN K. HELLERSTEIN, U.S.D.J.:

World Trade Center Property LLC, 1 World Trade Center LLC, 2 World Trade Center LLC, 3 World Trade Center LLC, and 4 World Trade Center LLC (collectively, "WTCP" or "WTCP plaintiffs") move to strike evidence they consider inadmissible. I rule as follows:

1. Rajiv Gokhale is offered as an expert of economics to present evidence of interest rates and discounted values. He presents his expert opinions on a schedule of insurance payments prepared by a law firm that represented WTCP in litigation involving the insurance carriers.

I find that Mr. Gokhale is qualified to be an expert, and that his opinion provides useful information within his expertise. As for the schedule of insurance payments, I am less concerned with the motivations causing the WTCP plaintiffs to give it to the Aviation defendants than with the accuracy of the information. Since the information set out in the schedule is known to the WTCP plaintiffs, it will be their burden to correct any inaccuracies, or add information to the record that they consider relevant; failing such, I accept the information in the schedule as accurate.

As to the exhibits attached to the Declaration of Desmond T. Barry, I rule as follows:

- a. I accept the fairness opinion of JP Morgan, Cushman & Wakefield, and Milstein Brothers Realty Advisors (Ex. B), and the appraisal opinion of Integra Krauser & Cirz (Ex. C) for what they are: opinions that the price consideration received by the

Port Authority from the WTCP parties, and the values of properties and leaseholds, were fair and reasonable, and of the approximate values stated, respectively. They are offered to support the consideration paid by the WTCP parties, and accepted by the Port Authority, for the relevant 99-year net leases, and I accept them as such.

- b. The various print-outs, offering circulars, and other references to which the WTCP defendants object are offered for context and background, and I accept them as such.
- c. The WTCP defendants may point out at argument any aspect of specific prejudice from the exhibits to which they object.

2. Accordingly, the motion of the WTCP defendants to strike evidence is denied in all respects.

SO ORDERED.

Dated: August 28, 2008
New York, New York


ALVIN K. HELLERSTEIN
United States District Judge